

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNIFIED HOLDINGS, LLC,

Plaintiff,

VS.

**OPTICAL PRODUCTS DEVELOPMENT
CORP., A Delaware Corporation, and
KENNETH WESTORT,**

Defendants.

8:09CV61

ORDER

This matter is before the court *sua sponte*, pursuant to [NECivR](#) 41.2, which states in pertinent part: “At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution.” On July 10, 2009, a clerk’s entry of default was entered against both defendants. **See** [Filing No. 14](#). The defendants have failed to obtain legal counsel or seek for the clerk’s entry of default to be set aside. Further, the plaintiff has failed to take any additional action against the defendants.

In any event, it remains the plaintiff's duty to go forward in prosecuting the case by, for example, filing a motion for entry of judgment against the defendants, pursuant to [Fed. R. Civ. P. 55\(b\)](#) and [NECivR 55.1\(b\)](#) or (c). Alternatively, the plaintiff may voluntarily dismiss the action against the defendants pursuant to [Fed. R. Civ. P. 41\(a\)](#) or be subject to involuntary dismissal pursuant to [Fed. R. Civ. P. 41\(b\)](#). Upon consideration,

IT IS ORDERED:

The plaintiff shall take appropriate action against the defendants or show cause why this case should not be dismissed for failure to prosecute on or before the close of business **September 25, 2009**.

DATED this 17th day of September, 2009.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge